

117749 21065

**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

**FILE:** B-205458

**DATE:** March 9, 1982

**MATTER OF:** Interscience Systems, Inc.

**DIGEST:**

Agency determination to procure both tape and disk equipment from a single vendor will not be disturbed where, as here, there has been no clear showing that the determination is unreasonable.

Interscience Systems, Inc. (Interscience), protests against the provisions of request for proposals (RFP) No. 81-17 issued by the Small Business Administration (SBA) for certain tape and disk equipment. The RFP requires a single vendor to provide both the tape and disk equipment. Interscience, which can provide only the tape system, contends that the SBA failed to maximize competition. We deny the protest because Interscience has not clearly shown that the SBA's basis for the requirement is unreasonable.

Interscience contends that, by requiring a single vendor to provide both tape and disk equipment, vendors, like Interscience, which can provide only tape equipment, are excluded from the competition. Interscience suggests that SBA procure the tape and disk equipment separately to maximize competition, as the law requires, and reduce the cost to the Government.

SBA reports that the single-vendor requirement represents the actual minimum needs of the Government, thus, providing a reasonable basis for the restriction on competition. SBA explains that, due to the critical nature of the 20 to 30 programs supported by the tape and disk equipment, onsite, vendor maintenance is required to ensure system operability. For example, SBA states that if equipment failure causes SBA to delay repayment of loans by 1 day, the cost to the Government would be about \$3,100. SBA also explains that, due to critical space problems, adequate space

is available for only one vendor's maintenance personnel to be located onsite. Finally, SBA reports that a dozen vendors were contacted because SBA believed that they could compete; in an effort to identify other potential sources, the procurement was advertised in the Commerce Business Daily; and, in fact, SBA received four proposals.

In reply, Interscience first argues that, in lieu of onsite maintenance, SBA's needs can be satisfied with on-call maintenance, thus, permitting the SBA to procure the items separately because SBA's space situation would no longer be a problem. Interscience explains that, based on reports from the supplier of the tape equipment and two users of the equipment, performance statistics show that Interscience's proposed equipment is very reliable. Interscience states that on-call maintenance is customary practice throughout the Federal Government and that the new system can be installed and made operational without onsite maintenance. Interscience contends that, because of the structure of SBA's system, the downtime of tape equipment related to on-call maintenance would not negatively impact SBA's operations. Finally, Interscience notes that on-call maintenance is less costly than onsite maintenance and over the life of the contract, Interscience estimates that SBA could save \$138,000 by specifying on-call maintenance.

Alternatively, Interscience argues that, if onsite maintenance is required, SBA could find space for a second vendor's maintenance personnel. Interscience notes that SBA will renovate to accommodate the single vendor contemplated in the RFP; in Interscience's view, the renovated area could accommodate two vendors' maintenance personnel.

We have recognized that Government procurement officials, who are familiar with the conditions under which supplies, equipment or services have been used in the past, and how they are to be used in the future, are generally in the best position to know the Government's actual minimum needs and, therefore, are best able to draft appropriate specifications. Maremont Corporation, 55 Comp. Gen. 1362 (1976), 76-2 CPD 181; Manufacturing Data Systems Incorporated, B-180586, B-180608, January 6, 1975, 75-1 CPD 6. Consequently, we will not question an agency's determination of what

its actual minimum needs are unless there is a clear showing that the determination has no reasonable basis. Jarrell-Ash Division of the Fisher Scientific Company, B-185582, January 12, 1977, 77-1 CPD 19; Maremont Corporation, supra; Newton Private Security Guard and Patrol Service, Inc., B-186756, November 30, 1976, 76-2 CPD 457; Johnson Controls, Inc., B-184416, January 2, 1976, 76-1 CPD 4.

On the other hand, we have recognized that procurement agencies are required to state specifications in terms that will permit the broadest field of competition within the minimum needs required and not the maximum desires. 32 Comp. Gen. 384 (1953). Specifications based only on personal preference in excess of the Government's actual needs are generally considered overly restrictive. Precision Dynamics Corporation, 54 Comp. Gen. 1114 (1975), 75-1 CPD 402; 32 Comp. Gen. supra.

Further, applicable procurement regulations (41 C.F.R. § 1-3.101(d) (1981)) require maximum practical competition in negotiated procurements; however, we recognize that once an agency adopts any kind of specification or limiting condition--such as a single vendor requirement--competition is automatically restricted to some extent. The vital point is not that competition is restricted due to certain legitimate needs of an agency, but whether competition is unduly restricted. Informatics, Inc., B-190203, March 20, 1978, 78-1 CPD 215, affirmed, Department of Commerce, et al., 57 Comp. Gen. 615 (1978), 78-2 CPD 84. Also, we have often pointed out that the fact that a particular prospective offeror is unable or unwilling to compete does not establish that the competition as a whole is unduly restrictive. CompuServe, B-188990, September 9, 1977, 77-2 CPD 182.

Regarding SBA's need for onsite maintenance, we are persuaded that the critical nature of the 20 to 30 programs to be supported by the new equipment reasonably justifies the requirement for onsite maintenance. As Interscience admits, performance statistics verifying good reliability are not a guarantee that the equipment delivered to SBA will perform as required by the contract. Further, the added downtime associated with on-call maintenance could adversely impact SBA's 20 to 30 critical programs supported by the equipment to be procured. We conclude, therefore, that Interscience

has not made the required clear showing that SBA's onsite maintenance requirement does not represent SBA's actual minimum needs.

Regarding SBA's determination that space would be available for only one vendor, we are not persuaded that adequate work space would be available for two vendors' maintenance personnel. In our view, Interscience has not clearly shown that SBA's determination--that the presence of two vendors' maintenance personnel would make the environment untenable and unmanageable--is unreasonable. The record on this point contains only the disagreement between SBA and Interscience. In that circumstance, we conclude that Interscience has not carried its burden of proof. See Interscience Systems, Inc., B-201890, June 30, 1981, 81-1 CPD 542.

Thus, (1) absent a clear showing that onsite maintenance is in excess of SBA's actual minimum needs and (2) since Interscience has not shown that SBA would have adequate space for two vendors' maintenance personnel, in view of the fact that SBA obtained adequate competition, the single-vendor requirement is not unduly restrictive of competition and we have no basis to disturb SBA's determination.

Protest denied.

*Sheldon J. Fowler*  
for Comptroller General  
of the United States